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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,451	06/12/2002	Helmut Klein	BM-85PCT	2843
7590		11/19/2003	EXAMINER	
Friedrich Kueffner		LUONG, VINH		
317 Madison Avenue		ART UNIT		
Suite 910		PAPER NUMBER		
New York, NY 10017		3682		

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,451

Applicant(s)

KLEIN ET AL.

Examiner

Vinh T Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 3682.

2. The Preliminary Amendment filed on March 14, 2002 has been entered.

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because of the implied phrase "The invention relates to . . ." Correction is required. See MPEP § 608.01(b).

5. The drawings are objected to because:

(A) the drawings are inconsistent with the claims. For example, claim 1 calls for "a

look (54)." however, the drawings do not show referential numeral 54.

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(B) the drawings are inconsistent with the specification. For example, page 8 of the specification describes that the container 13" is a monolithic part of light plastic material, however, Fig. 7 shows that the container 13" is made of metal in accordance with the drawing symbols in MPEP 608.02;

(C) the various parts in, e.g., Fig. 3, should be embraced by a bracket in order to show their relationship or the order of assembly;

(D) the drawing symbols are improper. For example, page 7 of the specification describes that the cover 32 is made of rubber-elastic plastic material, however, Fig. 4 does not show the drawing symbol for rubber or plastic as seen in MPEP 608.02; and

(E) each part of the invention, such as, (1) the electronic control and the flap in claim 1; and (2) the electronic control unit, the sending/receiving unit, and the flap in claim 8 should be designated by a referential numeral or character.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed features, such as, (a) the flap, the electronic control, the first and second states of the lock in claim 1; and (b) the electronic control unit, the sending/receiving unit, the released and locked positions of the lock, and the flap in claim 8 must be shown or the features canceled from the claims. No new matter should be entered. A proposed

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drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The alternate positions, such as, the first and second states of the lock in claim 1, and the released and locked positions of the lock in claim 8 are required to be shown in accordance with 37 CFR 1.84(h)(4).

7. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to the drawings, each of the lettered items should appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-Reference to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on compact disc (see 37 CFR 1.52(e)(5)).
- (e) Background of the Invention.
 - 1. Field of the Invention.
 - 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.
- (i) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.
- (l) Sequence Listing, if on paper (see 37 CFR 1.821-1.825).

8. The disclosure is objected to because of the following informalities:

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(A) the disclosure should have appropriate headings listed above;

(B) the disclosure should be arranged in the order listed above, e.g., the List of Reference Numerals on pages 12 and 13 of the specification should be deleted;

(C) the disclosure contains numerous typographical errors, e.g., "DE 197 45 140" on page 2 of the specification should have been "DE 197 45 149" and "touch surface (25)" in claim 10 should have been "touch surface (15)";

(D) the disclosure is inconsistent with the drawings. For example, (a) claim 1 calls for "a lock (54)," however, the drawings do not show referential numeral 54; and (b) page 8 of the specification describes that the container 13" is a monolithic part of light plastic material, however, Fig. 7 shows that the container 13" is made of metal in accordance with the drawing symbols in MPEP 608.02;

(E) the disclosure is inconsistent with each other. For example, claim 1 calls for "a lock (54)," however, the List of Reference Numerals on pages 12 and 13 of the specification do not list referential numeral 54; and

(F) each part of the invention, such as, (1) the electronic control and the flap in claim 1; and (2) the electronic control unit, the sending/receiving unit, and the flap in claim 8 should be designated by a referential numeral or character.

Appropriate correction is required.

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains,

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or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 claims:

Closing system, in particular for motor vehicles, comprised of a handle (10) comprised of two shells (11, 12) and a lock (54) on the vehicle on at least one door (52), flap, or the like as well as an electronic control,

wherein the lock (54) can be switched between two states, i.e., a first state, preventing opening of the door (52) and a second state, allowing opening of the door (52), flap or the like,

and wherein in the area of the handle (10) at least one switching element (18) is arranged with which the electronic control can be activated, via which the lock (54) can be transferred from its first state into the second state allowing opening of the door (52), flap or the like,

wherein the switching element (18) is integrated in a container (13, 13', 13", 13'''),

and the container (13, 13', 13", 13''') on at least one side has a touch surface (15') for actuating the switching element (18), and the container (13, 13', 13", 13''') is introduced into a receptacle (16) of the base shell (11) of the handle (10, 10', 10", 10'''),

and the base shell (11) of the handle (10, 10', 10", 10''') has a window cutout (14) in its outer wall (19, 20) in the area of the receptacle (16) in which, when the container (13, 13', 13", 13''')

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inserted into the receptacle (16), the container surface supporting the touch surface (15, 15') is positioned.

However, the drawings do not show, *inter alia*, (a) how the lock 54 and the electronic control are interconnected with other elements, such as, the handle 10, the door 52, etc.; (b) how the lock allows the door to be open or closed; and (c) how the electronic control controls the lock as claimed. In summary, it is unclear as to how applicant makes/uses the closing system as claimed in claim 1.

Similarly, claim 8 calls for the electronic control unit, the data carrier, the sending/receiving unit, *etc.* However, drawings do not show the instant claimed features. It is unclear as to how applicant makes/uses the electronic control unit, the data carrier, the sending/receiving unit, *etc.* as claimed in claim 8.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 8, the phrase "or the like" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).

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Regarding claim 1, the phrase "in particular for" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

No antecedent basis is seen for the term, such as, "the *base* shell" in claim 1.

It is unclear whether:

(A) the term that appears at least twice, such as, "a touch surface" in claims 1 and 4 refers to the same or different things. See MPEP 2173.05(o); and

(B) a confusing variety of terms, such as, "an electronic control" in claim 1 and "an electronic control unit" in claim 8 refer to the same or different things. See MPEP 2173.05(o) and MPEP § 608.01(o). Applicant is respectfully urged to identify each claimed element with reference to the drawings.

It is unclear which structural elements define the claimed elements, such as, (a) the electronic control and the flap in claim 1; and (b) the electronic control unit, the sending/receiving unit, and the flap in claim 8. Applicant is respectfully urged to identify each claimed element with reference to the drawings.

13. Claims 1-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraphs, set forth in this Office action.

14. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

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15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Agostini et al.'439 (switch 13), Agostini et al.'440 (handle 7 and lock 4), Agostini et al.'684 (switch 40), Agostini et al.'003 (lock 1a), Neuhoﬀ et al. (Fig. 1), Lohfeld et al.'835 (Figs. 2 and 3), Sueyoshi et al.'761 (handle 7), Mathofer et al.'477 (handle 43), Brescia et al.'900 (lock 40), Osada (switch 2), Schmitz et al.'418 (switch 11), and McGugan'267 (control 102).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Luong whose telephone number is (703) 308-3221. The examiner can normally be reached on Monday-Thursday from 8:30 AM EST to 7:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. The fax phone number for this Group is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Luong

November 10, 2003



Vinh T. Luong
Primary Examiner